



**King County**

## **Employee Giving Program**

### **Implementation Guidance for King County Employee Giving Program Eligibility Requirements**

#### **All Nonprofit Organizations**

##### **Eligibility Requirement 1**

*Is formally recognized by the IRS as a 501(c)(3) or is a governmental unit of the state of Washington, and for which all contributions to the nonprofit organization are eligible to be deductible for federal income tax purposes under Section 170 of the Internal Revenue Code of 1986.*

##### **Implementation Guidance**

Certify application and provide copy of IRS tax determination letter first year in program.

##### **Eligibility Requirement 2**

*Is registered with the Washington state Secretary of State as provided by RCW 19.09.065 and is in compliance with Washington state laws governing charities.*

##### **Implementation Guidance**

Certify application and provide copy of letter from Washington Secretary of State's office showing current registration (the printout from the website will not be accepted) and provide link to listing on WA SOS website. An organization may still be eligible if they are not registered if have a legal exemption. Legal exemptions can be found here:

<http://www.sos.wa.gov/charities/StartingaNewCharitableOrganization.aspx> However, the completion of optional registrations is strongly encouraged.

##### **Eligibility Requirement 3**

*Does not discriminate against any person on the basis of race, color, religious affiliation, sex, age, national origin, marital status, sexual orientation, disability, or gender identity or expression or qualifies for an exemption under Title VII of the Civil Rights Act of 1964 as amended. This does not deny eligibility to a federation or nonprofit organization that is otherwise eligible to participate in the annual drive merely because the federation or nonprofit organization is organized by, on behalf of or to serve persons of a particular race, color, religious affiliation, sex, national origin, age, marital status, sexual orientation, disability, or gender identity or expression.*

##### **Implementation Guidance**

Certify on application that organization has a documented, board approved non-discrimination policy that aligns with the spirit of the non-discrimination policy as stated above in Eligibility Requirement 3; and further, that the organization does not omit any of the listed protected classes, and/or the organization is legally exempt. The EGP recognizes that precise wording of nondiscrimination policies varies and does not require organizations to adopt King County policy verbatim. Per King County Code 3.36 we reserve the right to ask for supporting documentation of nondiscrimination policy, or of exemption thereof, at any time.

##### **Eligibility Requirement 4**

*Each federation and each independent nonprofit organization must submit an on-time and complete application, including all required attachments, during the annual nonprofit application cycle.*

##### **Implementation Guidance**

Applications must be received by the EGP by the published due date. If the application is initially denied, the appeal must also be received by the published appeal due date. The application must be complete with every required question answered and must include all requested documentation. Incomplete and ineligible applications will be automatically denied, and if received by the application due date, will be offered one appeal. No write-ins during the Annual Giving Drive or applications will be considered after the appeal deadline until the next year. All organizations must reapply annually.

## Implementation Guidance for King County Employee Giving Program Eligibility Requirements

### Eligibility Requirement 5

*The organization has been providing or conducting real services, benefits, assistance or program activities at least the previous three years.*

#### Implementation Guidance

Include the date of incorporation on the application. Additional documentation may be requested for determination, such as annual reports, financial statements, tax filing, program reports, or any documentation which shows that the organization has been working towards its mission for at least three years prior to June 1 of the application year. Examples that demonstrate provision of services, benefits, assistance or program activities include but are not limited to number of people served, referrals made, money distributed, outreach and education provided, or project plan steps completed.

### Eligibility Requirement 6a

*The organization is directed by an active governing body whose members have affirmed adherence to a conflict of interest policy and a majority of whom serve without compensation.*

The EGP uses the following definitions from the Better Business Bureau.

- The IRS Form 990 instructions define a director/trustee as member of the governing body with voting rights.
- Directly compensated voting members of the board are those who receive payments (cash and/or in-kind) from the organization (e.g., paid staff member, paid consultant, etc.).
- Indirectly compensated voting members of the board are those who are direct family members (e.g., spouse, parent, sibling, and child) of any of the directly compensated individuals noted above.
- Voting members of the board who receive honoraria are considered to be directly compensated.
- Voting members of the board who receive only reimbursements for expenses incurred are not considered to be compensated.
- Voting members of the board who are paid staff members of affiliated organizations are considered to be directly compensated if, and only if, financial and governance relationships between the subject organization and the affiliated organization are such that generally accepted accounting principles (GAAP) require the affiliated organizations to have combined audited financial statements.
- Conflict of Interest Policy – Please see the IRS sample policy located in instruction form 1023 Appendix A located here <http://www.irs.gov/pub/irs-pdf/i1023.pdf>

#### Implementation Guidance

Certify on application and maintain documentation on file within the organization, for example section Part IIV of the full form IRS 990

### Eligibility Requirement 6b

*Compensated governing body members do not serve as the governing body's chair or treasurer. Governmental units are exempt.*

The EGP applies the following to this requirement:

- The governing body's chair and treasurer are officers of the organization in a unique decision making capacity, regardless if they have official voting rights, the following definitions of compensation apply as well.
- Directly compensated those who receive payments (cash and/or in-kind) from the organization (e.g., paid staff member, paid consultant, etc.).

## Implementation Guidance for King County Employee Giving Program Eligibility Requirements

### Eligibility Requirement 6b - Continued

- Indirectly compensated those who are direct family members (e.g., spouse, parent, sibling, and child) of any of the directly compensated individuals noted above.
- Who receive honoraria are considered to be directly compensated.
- Who receive only reimbursements for expenses incurred are not considered to be compensated.
- Who are paid staff members of affiliated organizations are considered to be directly compensated if, and only if, financial and governance relationships between the subject organization and the affiliated organization are such that generally accepted accounting principles (GAAP) require the affiliated organizations to have combined audited financial statements.

### Implementation Guidance

Certify on application and maintain supporting documentation on file within the organization, for example section Part IIV of the full form IRS 990.

### Eligibility Requirement 7

*The organization's publicity and promotional activities are based upon the actual program and operations, are truthful and non-deceptive, and make no exaggerated or misleading claims.*

### Implementation Guidance

Certify on application and maintain supporting documentation on file within the organization, for example annual report, meeting minutes, financial statements, performance measures and/or work plan that can substantiate publicity and promotional activities.

### Eligibility Requirement 8

*The organization has an annual financial statement prepared in accordance with generally accepted accounting principles.*

### Implementation Guidance

Certify on application and maintain supporting documentation on file within the organization, for example profit and loss statements, IRS 990, etc. GAAP requires the accrual method of accounting. Many small organizations do cash accounting throughout the year and adjust to accrual for year-end statements. In some cases, the nonprofit is small enough, does not have any paid staff, and no receivables (you don't owe anyone money and they don't owe you) the difference between the two is not material and would not have a consequence to the financial statement. See helpful resources at the bottom of our Eligibility Requirements page.

### Eligibility Requirement 9

*Within the fiscal period ending not more than 18 months prior to the January of the year of the Annual Drive for which the organization is applying, the organization's financial statement has been audited per the following: If the organization's total annual gross income exceeds \$1,000,000, their annual financial statement has been audited in accordance with generally accepted auditing standards; if annual gross income is less than \$1,000,000, a review by a certified public accountant has been conducted; if the annual gross income is less than \$250,000, an internally produced, complete financial statement was produced. Governmental units are exempt.*

### Implementation Guidance

Certify on application and maintain supporting documentation on file within the organization that shows that the most recent complete financial statement ending between June 30, 2015 and December 31, 2016 meets the following:

## Implementation Guidance for King County Employee Giving Program Eligibility Requirements

### Eligibility Requirement 9 - Continued

- Gross annual income  $\geq$ \$1,000,000: The financial statement was audited in accordance with generally accepted auditing standards by an independent agent.
  - If the organization's total annual gross income includes in-kind gifts such as food, diapers, etc. but they directly or indirectly receive five hundred thousand dollars or less in cash in the accounting year for which they are reporting than a review by a certified public accountant would meet this requirement.
  - For purposes of meeting the financial requirements in this section, "cash" includes currency, checks, credit card payments, donor advised funds, and electronic fund transfers received from all sources including, but not limited to, solicitations, investment income and tuition. "Cash" does not include gifts of tangible, real, or personal property or in-kind services.
- Gross annual income less than \$1,000,000 but greater than \$250,000: the financial statements may be reviewed by an independent certified public accountant. A review of a financial statement provides some level of assurance, but does not involve an examination that is in accordance with generally accepted auditing standards (GAAS). This standard may also be met if the independent review was done by an accountant and overseen and signed off by a certified public account. *Continued on next page.*
- Gross annual income  $<$ \$250,000: An annual financial statement that has been presented to the board, or a 990 full form or 990 EZ will meet this standard.

### Eligibility Requirement 10

*The organization will prohibit the sale, lease or distribution of King County contributor lists.*

#### Implementation Guidance

Certify compliance on the application. In the case of an audit by the EGP, documentation of an overarching organizational privacy policy that includes a statement that the organization does not sell, lease or distribute their contributor lists or documentation of a process that separates out King County contributor names from distributed lists would be acceptable supporting documentation.

### Eligibility Requirement 11

*A federation, each nonprofit organization represented by a federation, and each independent nonprofit organization, shall make available upon request by the EGP Committee, the King County Council, or the County Executive:*

- *its most recent IRS Form 990 or IRS Pro Forma 990;*
- *its most recent annual report, including an annual financial statement;*
- *a disclosure for the most recent annual report period of the total dollar value of support from all sources received on behalf of the charitable purposes of the organization; and*
- *the total dollar amounts applied to charitable purposes, fundraising costs and all other expenses during the most recent annual report period*

#### Implementation Guidance

Certify on application and provide supporting documentation if requested by EGP.

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**Federations** – Federations must meet the following eligibility requirements in addition to “All Nonprofit Organizations” requirements 1-11 above.

### Eligibility Requirement Fed 1

*For a federation, the federation has the express permission of an authorized official of each of its member nonprofit organizations to use the nonprofit organization's name and to participate in the Annual Drive.*

## Implementation Guidance for King County Employee Giving Program Eligibility Requirements

### Implementation Guidance

Certify on application and maintain supporting documentation on file within the organization, such as member organization application giving such permission and/or signed authorization from the board of directors or Executive Director.

### Eligibility Requirement Fed 2

*For a federation, the federation has verified and accurately declared that each member organization meets all EGP eligibility requirements.*

### Implementation Guidance

Certify on application and maintain supporting documentation on file within the organization, such as member organization application to federation that covers all eligibility requirements, specific verification of our eligibility process through a separate process such as sharing of our application and/or worksheet.

**Governmental Units** – Governmental Units must meet the following eligibility requirement in addition to “All Nonprofit Organizations” requirements 1-11 above, except where exempted.

### Eligibility Requirement Gov 1

*A state of Washington governmental unit may apply for inclusion in the Annual Drive if a contribution for the purpose specified by the governmental unit would constitute a “charitable contribution” under Section 170 of the Internal Revenue Code of 1986. Under Section 170, a charitable contribution to a state or political subdivision must be “for exclusively public purposes.”*

### Implementation Guidance

In order to establish eligibility, a governmental unit must certify on application and include with its application all of the following:

1. Documentation that the governmental unit is authorized to solicit and accept donations for the purpose identified in the application. For example, this can be a copy of legislation. Whichever legal instrument is appropriate for the municipality.
2. Documentation of a separate fund or account that designates that its uses are limited to donations made for the purpose identified in the application; this could be included in the legal review below.
3. A legal review stating that a contribution to the separate fund or account would meet the definition of “charitable contribution” under Section 170 of the IRS Tax Code.

## Shared Tax Identification Numbers (TIN)

Nonprofit organizations that submit separate applications under a common Tax Identification Number (TIN) must provide information to establish clearly distinguishable, separate identities for each organization in order to be listed separately in the Annual Drive. The information supplied by nonprofit organizations with a common TIN must establish that they are not simply a parent organization and a program(s) of the parent organization. Provision of information does not guarantee separate listings.

Such information may include:

1. separate accounting, including independent financial statements;
2. separate advisory/governing bodies;
3. clearly defined geographical service areas such as local chapters of a national organization; and/or
4. independent branding including website and marketing materials.